



April 25, 2014

**Ex Parte Notice**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re:    *Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184***

Dear Ms. Dortch:

On behalf of the National Tribal Telecommunications Association (NTTA), please accept the attached summary of NTTA's position regarding the Commission's efforts to modernize the federal E-rate program for schools and libraries.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

Douglas K. Kitch, CPA  
Principal

Attachment

NTTA consists of Tribally-owned communications companies including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono O'odham Utility Authority, and Warm Springs Telecom. NTTA's mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands. NTTA members are very involved in the provision of voice and broadband services to schools and libraries located in Tribal areas, and thus offer this position paper for the Commission's consideration.

***NTTA Supports Recent Comments Filed Addressing Tribal Specific Issues***

NTTA, in general, supports the recent joint comments filed by the Tribal Commenters<sup>1</sup> and the further comments provided by the Navajo Nation Telecommunications Regulatory Commission (NNTRC)<sup>2</sup>. Specifically, NTTA echoes these comments in urging the Commission to recognize the disparity in E-rate usage of schools and libraries operating in Tribal areas<sup>3</sup>, and the difficulty in some instances of building broadband capable networks in rural, high cost Tribal areas.<sup>4</sup> NTTA also cautions the Commission to ensure its core values, especially as they relate to ubiquitous and affordable access to quality voice and broadband service, public safety, and consumer protection, are not sacrificed in the name of new E-rate policies that would possibly divert funding away from the protection of the core values.

***Tribal Stakeholders Must Be Involved***

In any discussion of the equal distribution of communications opportunity, whether it is related to basic universal service, rural health care, or schools and libraries, it must be recognized that these issues in Tribal areas require additional thought and care. Tribal areas present unique challenges to providers seeking to bridge the digital divide for schools, libraries, and indeed all people residing on Tribal lands. As Chairman Wheeler recently stated "Our particular focus is to make sure E-rate funds are equitably distributed to all eligible entities - including rural schools and libraries on Tribal lands - in order to reduce the digital divide that continues to plague so many parts of rural America, and especially Indian Country."<sup>5</sup> In order to more effectively accomplish this goal, the Commission must ensure that Tribal governments are involved at every step of the way. To do this, it is important to begin "the next generation of

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<sup>1</sup> Joint Comments Filed by Tribal Telecommunications Companies and Tribal Organizations, WC Docket No. 13-184, April 7, 2014 (*Tribal Commenters*)

<sup>2</sup> Comments filed in WC Docket No. 13-184 on April 7, 2014

<sup>3</sup> See e.g., *Tribal Commenters* at 2; NNTRC Comments at 1

<sup>4</sup> See e.g., *Tribal Commenters* at 4

<sup>5</sup> Prepared Remarks of Tom Wheeler, Chairman, Federal Communications Commission, National Congress of American Indians, Washington, D.C., March 12, 2014 at 6

consultation between the FCC and Tribal Nations”<sup>6</sup> through better use of the Commission’s Tribal policy statement.<sup>7</sup>

Both the *Tribal Commenters* and the NNTRC provide the Commission with good starting points on how to better engage with Tribal governments in ensuring the E-rate program is effective in Tribal areas. For example, the Tribal Commenters suggest the FCC “direct its Office of Native Affairs and Policy (ONAP) to develop educational materials as part of the FCC’s Native Learning Lab.”<sup>8</sup> This would provide for a central resource for Tribal schools and library officials to access in regards to the E-rate program and the promise it holds for expanding access to Tribal areas. NNTRC recommends that the FCC establish a Tribal Liaison at the Universal Service Administrative Company (USAC) to assist “Tribes in complying with the E-rate regulations and be available to Tribes to answer questions during critical times of the annual funding cycle.”<sup>9</sup> These are both good ideas and represent new and unique examples of how the FCC can better utilize its *Tribal Policy Statement* in furthering national communications goals in Tribal areas.

### ***Phase Down of E-Rate Support for Voice Services***

NTTA echoes the caution stated by the *Tribal Commenters* in regards to the phase-down or phase-out of E-rate support for voice services.<sup>10</sup> In essence, the idea contained in the *Public Notice* was to shift E-rate funding away from supporting voice services to supporting more broadband-focused services.<sup>11</sup> While NTTA agrees that the overall focus of the E-rate program should, over time, shift to broadband availability to schools and libraries, this cannot be done at the expense of those E-rate participants that still rely on program support to fund voice services. At most, the Commission should engage with E-rate funding recipients on Tribal lands to determine whether such a shift in funds would cause overall harm or bring an overall benefit, and then provide for a carve-out for any Tribal area schools and libraries that could not continue to subscribe to voice services in the absence of E-rate support.

### ***Tribal Priority for E-Rate Funding***

NTTA agrees with the *Tribal Commenters* in that a Tribal Priority for E-rate funding should be established.<sup>12</sup> In addition, we recommend that an E-rate tribal priority be established for provisioning and maintaining broadband access to schools and libraries located on Tribal lands and served by Tribally-owned carriers, including NTTA members. These carriers should be provided an additional E-rate priority to build and maintain networks, provide services and be considered for other projects, over any E-rate funded broadband capable network. Tribally-owned carriers are uniquely situated to be able to quickly and efficiently provide the necessary

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<sup>6</sup> *Id.*, at 3

<sup>7</sup> Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes (FCC 00-207, rel. June 23, 2000) (*Tribal Policy Statement*)

<sup>8</sup> *Tribal Commenters* at 4

<sup>9</sup> NNTRC comments at 3

<sup>10</sup> *Tribal Commenters* at 10

<sup>11</sup> *Public Notice* at 40-49

<sup>12</sup> *Tribal Commenters* at 7

broadband capable network and related services to schools and libraries, especially if issues surrounding affordability can be addressed via modernized E-rate funding.<sup>13</sup>

Finally, NTTA warns the Commission to focus on what is important in the ongoing efforts to modernize the E-rate program - to ensure “99 percent of America’s students” are connected “to digital learning opportunities through high-speed broadband in their schools and libraries.”<sup>14</sup> The first step in ensuring America’s students benefit through achievement of this goal is to ensure the existence of scalable, broadband-capable facilities *to* the schools and libraries. Thus, the priority for the E-rate program should be to ensure, to the greatest extent possible, the existence of these vital networks in Tribal areas. Once this priority is met, then the program can ensure the other goals for America’s schools and libraries are met, such as supporting broadband networks *within* these institutions.

### **Conclusion**

NTTA commends the Commission in focusing on the important goals surrounding the E-rate program and looking to improve how these goals are met. Within the reality of limited funding, priorities must be established in order to best utilize the resources available. For schools and libraries on Tribal lands, the evidence is clear that more work must be done, and therefore the Commission can and should reasonably place priority in these areas. The alternative is to risk widening the divide for Native Americans who look to their Tribal schools and libraries for the increasingly vital connection to the world offered by broadband networks.

### **The National Tribal Telecommunications Association**

Godfrey Enjady  
President

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<sup>13</sup> *Public Notice* at 25 - “However, commenters have explained that even with the current levels of E-rate support, some schools and libraries cannot afford to pay their share of the cost of deploying last-mile high-capacity broadband.” (internal footnote omitted)

<sup>14</sup> Prepared Remarks of Tom Wheeler, Chairman, Federal Communications Commission, National Digital Learning Day, February 5, 2014 (referring to President Obama’s “ConnectED” initiative)